

J. Andrew Coombs (SBN 123881)
andy@coombspc.com

Annie S. Wang (SBN 243027)
annie@coombspc.com

J. Andrew Coombs, A Prof. Corp.
517 East Wilson Avenue, Suite 202
Glendale, California 91206
Telephone: (818) 500-3200
Facsimile: (818) 500-3201

Attorneys for Plaintiff
Adobe Systems Incorporated

Cheryl L. Hodgson (SBN 141275)
HODGSON LAW GROUP
9606 Santa Monica Boulevard, Third Floor
Beverly Hills, California 90210
Telephone: (310) 623-3515
Facsimile: (310) 919-3515

Attorney for Defendant

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)

Adobe Systems Incorporated,)	Case No.: C08-0936 PJH
)	
Plaintiff,)	JOINT CASE MANAGEMENT
v.)	STATEMENT
)	
Eduard Sarkisov a/k/a Edward Sarkisov and)	
Does 1 through 10, inclusive,)	
)	
Defendants.)	

The parties to the above-entitled action (the "Parties") submit this Joint Case Management Statement and request the Court to adopt it as the Case Management Order in this case, pursuant to Federal Rule of Civil Procedure 16 and Civil L.R. 16-10(b).

JOINT CASE MANAGEMENT STATEMENT

1. Jurisdiction and Service

Jurisdiction: The claims alleged herein arise under the Trademark Act, 15 U.S.C. § 1051, et seq., and under the Copyright Act of 1976, 17 U.S.C. § 101, et seq., for trademark and copyright infringement. This Court has original jurisdiction over the subject matter of this action pursuant to

1 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1332 and 1338. This Court has personal jurisdiction over
2 the Defendant because he does business in the district. The events giving rise to the claims alleged
3 herein occurred, among other places, within this judicial district. Venue in the Northern District of
4 California is proper pursuant to 28 U.S.C. § 1391(b) and § 1400(a).

5 Service: All named parties have been served and have answered the complaint.

6
7 2. Facts

8 Plaintiff Adobe Systems Incorporated (“Plaintiff” or “Adobe”) seeks money damages and
9 injunctive relief against Defendant Eduard Sarkisov a/k/a Edward Sarkisov (“Defendant”) for
10 infringing Plaintiff’s copyrights and trademarks. In particular, Plaintiff alleges that Defendant was
11 responsible for the distribution, promotion and sale of unauthorized computer software, containing
12 copies of Plaintiffs computer programs, and selling them over eBay.

13
14 Defendant contends a factual dispute exists as to software copies purchased for resale by
15 Plaintiff were in fact lawful or pirated by the vendor supplier.

16 3. Legal Issues

17 Plaintiff identifies Defendant’s willfulness and the extent of Defendant’s profits as the
18 principal issues in the case.

19 Defendant contends there is not issue as to defendant’s profits or willfulness. Defendant
20 contends Plaintiff continues to characterize defendant in public media releases as a “Pirate.”
21 Defendant asserts he is a student, who purchased copies of software for resale to support himself
22 while in college. Defendant contends he had a good faith belief the copies were lawful. Defendant
23 contends each sale was documented and provided voluntarily plaintiff without discovery requests
24 to. Moreover, defendant contends he ceased sales immediately upon the filing of this action.
25 Defendant contends there is no evidence of willful conduct.
26
27
28

1 4. Motions

2 There are no prior or pending motions. Plaintiff believes a motion for summary judgment
3 as to liability and/or entry of a preliminary injunction may be appropriate.

4 Defendant: There would be no reason for an injunction since defendant has made no sales
5 since the filing of the complaint in this action.

6 Amendment of Pleadings

7 Plaintiff, at this time, does not contemplate the amendment of pleadings for any reason,
8 including the addition of new parties. Plaintiff believes that information disclosed in discovery
9 may make addition of new defendants prudent and a more efficient use of the Court's resources, so
10 the Parties propose that the last day to amend the pleadings and the last day to join additional
11 parties shall be 90 days from the date of the case management conference.

12 Defendant states he may well amend his complaint to add a counterclaim for defamation and
13 libel if plaintiff does not provide sufficient evidence that the copies purchased by defendant for
14 resale were in fact pirated.

15 5. Evidence Preservation

16 The Parties have discussed discovery and preservation of electronically stored information.

17 6. Disclosures

18 The Parties agree that the required disclosures under Rule 26(a)(1) will be made on or
19 before the case management conference.

20 7. Discovery

21 Written discovery propounded by Plaintiff to Defendant is currently pending. The Parties
22 anticipate propounding written discovery, subpoenas to third parties and taking depositions. The
23 Parties do not believe that discovery should be conducted in phases or limited to or focused only
24 upon particular issues.

1 The Parties propose that discovery be completed by the proposed discovery cut-off date of
2 October 24, 2008 or any other discovery cut-off date the Court may set.

3 The Parties do not propose any other changes in the limitations on discovery beyond those
4 already contained in the Federal Rules and the Local Rules.
5

6 8. Class Actions

7 Not applicable.

8 9. Related Cases

9 Not applicable.

10 10. Relief

11 Plaintiff contends it may elect statutory or actual damages but is not prepared to make that
12 election at this time. In any event, Plaintiff will seek entry of a permanent injunction.
13

14 Defendant states he has previously offered to stipulate to entry of an injunction. Defendant
15 contends Plaintiff's monetary demands are excessive and unreasonable given the facts.

16 11. Settlement and ADR

17 Settlement: The Parties have discussed settlement preliminarily during and before their
18 early meeting.

19 ADR Plan: The case has been assigned to the ADR Multi-Option Program. The Parties
20 believe that Court sponsored Mediation may be beneficial. The Parties would like to request that
21 the Mediator be located in or close to Los Angeles County.
22

23 The Parties have filed ADR Certifications attesting to those matters set forth at ADR Local
24 Rule 3-5(b).

25 12. Consent to Magistrate Judge for All Purposes

26 The Parties do not consent to assignment of this case to a United States Magistrate Judge
27 for Trial.
28

1 13. Other References

2 The Parties do not believe the case is suitable for reference to binding arbitration, a special
3 master or the Judicial Panel on Multidistrict Litigation.

4 14. Narrowing of Issues

5 At this time the Parties have yet to identify issues that can be narrowed by agreement or by
6 motion for purposes of trial.

7 15. Expedited Schedule

8 The Parties believe that the legal issues are sufficiently complex such that this case is not
9 appropriate to being handled on an expedited basis with streamlined procedures.

10 16. Scheduling

11 The parties propose an expert designation deadline consistent with the federal rules.

12 The parties propose a fact discovery cut-off date of October 24, 2008, by which time all fact
13 discovery shall be concluded.

14 The parties propose that all motions, including dispositive motions, be heard not later than
15 January 13, 2009.

16 The parties propose a pretrial conference date of March 10, 2009.

17 The parties propose a trial date of March 24, 2009.

18 17. Trial Estimate

19 The Parties have requested a trial by jury. Plaintiff estimates a trial of approximately four
20 (4) or five (5) court days.

21 Defendant believes the case can be tried in two days.

18. Disclosure of Non-party Interested Entities or Persons

The Plaintiff has filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16 and would also like to identify the Software & Information Industry Association (SIIA) as an interested non-party to the case.

Defendants is unaware of any interest non-party to the case.

Other Issues

The Parties did not identify any other issues affecting case management.

Dated: June 24, 2008

J. Andrew Coombs, A Professional Corp.

By: /s/ Annie S. Wang

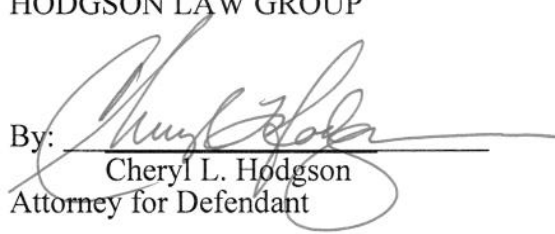
J. Andrew Coombs

Annie S. Wang

Attorneys for Plaintiff Adobe Systems Incorporated

Dated: June 23, 2008

HODGSON LAW GROUP

By: 
Cheryl L. Hodgson
Attorney for Defendant